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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT TACOMA

9 DEVON WALKER,

10 Plaintiff,

11 v.

12 BREMERTON POLICE
DEPARTMENT, et al.,

13 Defendants.

Case No. C09-5335BHS

ORDER DIRECTING
SERVICE BY UNITED
STATES MARSHAL AND
PROCEDURES

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15 Plaintiff was granted leave to proceed *in forma pauperis* on October 16, 2009. Dkt. 7.

16 The Clerk is directed to effect service as provided below:

17 (1) Service by United States Marshal.

18 It is hereby ORDERED that the United States Marshal shall send the following to each
19 named defendant by first class mail: a copy of the complaint (Dkt. 8) and of this order, a copy of
20 the Summons in a Civil Case, two copies of the Notice of Lawsuit and Request for Waiver of
21 Service of Summons, a Waiver of Service of Summons, and a return envelope, postage prepaid,
22 addressed to the Clerk's Office. All costs of service shall be advanced by the United States. The
23 Clerk shall assemble the necessary documents to effect service.

24 (2) Response Required

25 Defendants shall have **thirty (30) days** within which to return the enclosed Waiver of
26 Service of Summons. Each defendant who timely returns the signed Waiver shall have **sixty (60)**
27 **days** after the date designated on the Notice of Lawsuit to file and serve an answer or a motion
28 directed to the complaint, as permitted by Rule 12 of the Federal Rules of Civil Procedure.

1 Any defendant who fails to timely return the signed Waiver will be personally served with
2 a summons and complaint, and may be required to pay the full costs of such service, pursuant to
3 Rule 4(d)(2). A defendant who has been personally served shall file an answer or motion
4 permitted under Rule 12 within **thirty (30) days** after service.

5 (3) Filing and Service by Parties, Generally.

6 All original documents and papers submitted for consideration by the Court in this case are
7 to be filed with the Clerk of this Court. The papers shall be accompanied by proof that such
8 documents have been served upon counsel for the opposing party (or upon any party acting *pro*
9 *se*). The proof shall show the day and manner of service and may be written acknowledgment of
10 service, by certificate of a member of the bar of this Court, or by affidavit of the person who
11 served the papers.

12 (4) Motions.

13 Any request for Court action shall be set forth in a motion, properly filed and served. A
14 party must file and serve with the motion a supporting memorandum. The motion shall include in
15 its caption (immediately below the title of the motion) a designation of the Friday upon which the
16 motion is to be noted upon the Court's calendar, as set forth in Local Rule CR 7.

17 (5) Motions for Summary Judgment

18 If one of the parties files a motion for summary judgment pursuant to Federal Rules of
19 Civil Procedure 56, the opposing party should acquaint him/herself with Rule 56. Rule 56
20 requires a nonmoving party to submit affidavits or other evidence in opposition to a motion for
21 summary judgment if the moving party has shown the absence of issues of material fact and an
22 entitlement to judgment as a matter of law. A nonmoving party may not rest upon the mere
23 allegations or denials of prior pleadings. Rather, successful opposition to a motion for summary
24 judgment requires the nonmoving party to set forth, through affidavits or other evidence, specific
25 facts showing a genuine issue for trial. Failure by the nonmoving party to oppose a summary
26 judgment motion or to present counter evidence could result in the Court accepting the moving
27 party's evidence as the truth, and entering final judgment in favor of the moving party without a
28 full trial. *Rand v. Rowland*, 113 F.3d 1520 (9th Cir. 1997).

1 (6) New Deadlines

2 Because of the delay in serving the parties in this case, a new Revised Minute Order
3 Regarding Initial Disclosures, Joint Status Report and Early Settlement will be issued to give the
4 parties more time for meeting the required deadlines.

5 DATED this 11th day of January, 2010.

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8 BENJAMIN H. SETTLE
9 United States District Judge
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